AMENDED IN SENATE MAY 31, 2005

AMENDED IN SENATE MAY 16, 2005

SENATE BILL No. 553

Introduced by Senator Dutton

February 18, 2005

An act to add Sections 17139~~, 17204.5, 17204.6, and 24342~~ *and 17204.5* to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 553, as amended, Dutton. Personal income~~ and corporation~~ taxes: individual homeownership development accounts.

The Personal Income Tax Law~~ and the Corporation Tax Law allow~~ *allows* various deductions and exclusions in computing taxable income under~~ those laws~~ *that law*.

This bill would~~, under the Personal Income Tax Law,~~ allow a deduction, not to exceed $10,000, of the amount contributed in any taxable year to an individual homeownership development account, and would, for taxable years commencing on or after January 1, 2005, exclude from gross income any interest earned by an individual homeownership development account.~~ This bill would, under the Personal Income Tax Law and the Corporation Tax Law, allow a deduction to an employer with respect to matching funds contributed by the employer to an individual homeownership account of an employee, as provided.~~

The bill would provide that amounts may be withdrawn from those accounts to pay for qualified individual homeownership development expenses, as defined. Any withdrawals for other than qualified individual homeownership development expenses would be included in income.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17139 is added to the Revenue and Taxation Code, to read:

17139. For each taxable year beginning on or after January 1, 2005, gross income does not include, under the same conditions as provided in Section 408 of the Internal Revenue Code with respect to an individual retirement account, any interest, and any other moneys, earned during the taxable year by an individual homeownership development account as defined in Section 17204.5.

SEC. 2. Section 17204.5 is added to the Revenue and Taxation Code, to read:

17204.5. (a) *(1)* For each taxable year beginning on or after January 1, 2005, there shall be allowed as a deduction an amount equal to the amount contributed by a taxpayer during the taxable year to an individual homeownership development account, not to exceed ten thousand dollars ($10,000). ~~The~~

(2) The dollar limitation in ~~the preceding sentence~~ *paragraph (1)* shall not preclude contributions of matching funds to an individual homeownership development account by any person other than the taxpayer. However, matching funds may be withdrawn only for qualified individual homeownership development expenses, and may not be withdrawn for any emergency, medical or ~~otherwise~~ *other unrelated purpose*. No contributions of matching funds to an individual homeownership development account shall be allowed if the person contributing those funds is to receive any earnings or other investment returns on the contribution. *In the event that it becomes unlikely that the matching funds will be used for qualified individual homeownership development expenses, such as upon the death of the taxpayer, the matching funds shall be returned to the contributor of those funds.*

(b) For purposes of this section:

(1) "Individual homeownership development account" means a trustee account that meets all of the following requirements:

(A) Is designated as an individual homeownership development account by the trustee.

(B) Is established for the exclusive benefit of any individual establishing the account where the written governing instrument creating the account provides for the following:

(i) All contributions to the account are required to be in cash.

(ii) The account is established to pay, pursuant to the requirements and limitations of this section, for the qualified individual homeownership development expenses of an individual establishing the account.

(C) Is, except as otherwise required or authorized by this section, subject to the same requirements and limitations as an individual retirement account established under Section 408 of the Internal Revenue Code, and any regulations adopted thereunder.

(D) Is the only account established for a particular individual.

(2) "Qualified individual homeownership development expenses" means expenses, including a down payment, paid or incurred in connection with the purchase of an individual's first residence for use by the individual who established the individual homeownership development account as his or her principal residence. The residence shall not be considered an individual's first residence if either of the following applies:

(A) The individual or the individual's spouse has held an ownership interest in a residence that was the principal residence in this state of that individual or individual's spouse during the two-year period preceding any purchase of a residence with the funds contributed to the individual homeownership development account.

(B) The purchase price of the residence is greater than 120 percent of the median home sales price in the county in which the residence is located.

(3) "Trustee" shall have the same meaning as that term has under Section 408 of the Internal Revenue Code, and any regulations adopted thereunder.

(c) Any amount withdrawn from an individual homeownership development account shall, except as otherwise provided in this section, be included in the income of the payee or distributee for the taxable year in which the payment or distribution is made, unless the payment or distribution is made to pay for the qualified individual homeownership development expenses of an individual that established the account.

(d) Notwithstanding any provision of Section 408 of the Internal Revenue Code, or any other law, to the contrary, no age or time limitations shall apply to any distributions from an individual homeownership development account that are used for qualified individual homeownership development expenses.

~~SEC. 3. Section 17204.6 is added to the Revenue and Taxation Code, to read:~~

~~17204.6. For each taxable year beginning on or after January 1, 2005, there shall be allowed as a deduction an amount equal to the amount contributed during the taxable year by an employer to an individual homeownership account of an employee of that employer as matching funds pursuant to Section 17204.5. The amount of deduction under this section shall be subject to the same limitations applicable to cash or deferred arrangements under Section 401(k) of the Internal Revenue Code.~~

~~SEC. 4. Section 24342 is added to the Revenue and Taxation Code, to read:~~

~~24342. For each taxable year beginning on or after January 1, 2005, there shall be allowed as a deduction an amount equal to the amount contributed during the taxable year by an employer to an individual homeownership account of an employee of that employer as matching funds pursuant to Section 17204.5. The amount of deduction under this section shall be subject to the same limitations applicable to cash or deferred arrangements under Section 401(k) of the Internal Revenue Code.~~

~~SEC. 5.—~~

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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